

A cooperative art gallery formed and operated by a group of artists for the purpose of exhibiting and selling their works does not qualify for exemption under section 501(c)(3) of the Code.

A question asked the Internal Revenue Service is whether a cooperative art gallery that exhibits and sells its members' works may be exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

The gallery was formed and is operated by a group of approximately 50 artists for the purposes of exhibiting and selling their works. Additional artists are admitted to membership by approval of the existing members.

The gallery is open to the public six days a week. No admission is charged. Works of the member artists are exhibited and offered for sale. A panel chosen by the members selects those works for exhibition that in its opinion meet certain minimal artistic standards. Special showings by individual members are also held on a rotating basis. All works may be purchased by the public and many may be rented. The gallery retains a commission from sales and rental sufficient to cover the cost of operating the gallery. Any deficits that occur are covered by special assessments of the members.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations that are organized and operated exclusively for educational purposes. Section 1.501(c)(3)-1(d)(3)(ii) of the Income Tax Regulations states that museums and similar organizations are examples of exempt educational organizations.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization may not be exempt if it is operated for the benefit of private individuals.

The cooperative gallery in this case is engaged in showing and selling only the works of its own members and is a vehicle for advancing their careers and promoting the sale of their work. It serves the private purposes of its members, even though the exhibition and sale of paintings may be an educational activity in other respects.

Accordingly, it is held that the organization is not organized and operated exclusively in furtherance of exempt purposes and is not exempt under the provisions of section 501(c)(3) of the Code.